

## **REMARKS**

### **Status of the Claims**

Claims 1-4 and 6-25 are currently pending in the application. These claims have not been amended by this response. No new matter is added.

### **Initial Matters**

Applicants wish to note, again, that after examining the US Patent Application Publication for this application (US2006/0239801), it appears the Figure 6 on drawing sheet 5 was not included. Applicants wish to ensure that the Examiner is aware of this figure and respectfully request acknowledgement, in the next office action, of the inclusion of this figure in the application.

Further, Applicants wish to thank Examiner Prakasam for conducting an interview with Applicant's representative on April 3, 2008. During the interview the Examiner clarified that in the 35 U.S.C. § 103 rejection of the claims based on US Patent No. 3,978,995 to Zollinger, the Examiner had interpreted:

Zollinger's transverse aisle 120 as the recited "feeding system";

Zollinger's mobile vertical lift 100 as recited "floor-bound transport system"; and

Zollinger's mobile transfer vehicles 200 as the recited "at least on vehicle."

Applicant's appreciate the clarification of the rejection and have carefully examined the rejection in light of the clarification. In response to the rejection, the Applicants offer the following remarks/arguments and respectfully request reconsideration of the claims.

### **Rejections under 35 U.S.C. § 103**

#### **A. Zollinger**

The Office Action has rejected claims 1-23 and 25 for alleged obviousness over US Patent No. 3,978,995 to Zollinger (*hereinafter* "Zollinger"). See the Office Action at page 2. Applicants respectfully traverse this rejection for at least the following reasons.

First, Claim 1 recites, *inter alia*, "a floor-bound transport system with at least one

vehicle that runs solely along a floor and is configured to take storing units out of said rack shelves and to transport said storing units” (emphasis added). Zollinger discloses mobile tier picking apparatus for a warehousing system which includes a mobile vertical lift 100 and mobile vertical transfer vehicles 200. The Office has construed mobile transfer vehicles 200 as the floor-bound vehicle. *See* the Office Action at page 2. However, the mobile transfer vehicles 200 are not floor-bound and clearly do not run solely along the floor.

The Office Action has responded to the above argument by stating that in Zollinger, “a mobile tier runs along the floor by virtue of the fact that it is conveyed in a longitudinal direction along the line of the floor.” *See* the Office Action at page 3. However, even if this statement is true (a point not conceded by the Applicants), it does not change the fact that the mobile transfer vehicle 200 does not run solely along the floor as recited in the claim.

As conceded by the Office, Zollinger’s mobile transfer vehicles 200 move in tracks 18. *See* the Office Action at page 2. As seen in Zollinger’s FIG. 3, the tracks 18 are positioned at various different levels of the racks. The mere fact that a mobile transfer vehicle 200 moves in one of these tracks above the floor clearly demonstrates that the mobile transfer vehicle 200 does not run solely along the floor. Further, as seen in FIG. 3, none of the tracks 18 are on the floor. Therefore, not only does the mobile transfer vehicle 200 fail to run solely along the floor, it doesn’t run along the floor at all. Therefore, Zollinger does not teach or suggest the recited claim language.

Secondly, Claim 1 also recites, *inter alia*, “a feeding system that does not directly contact the floor and is arranged above and separate from said floor-bound transport system” (emphasis added).

During the interview, the Examiner has clarified that in the rejection, Zollinger’s transverse aisle 120 is interpreted as the recited feeding system and that Zollinger’s mobile vertical lift 100 is interpreted as the recited floor-bound transport system. However, in contrast to the recited claim language, Zollinger’s transverse aisle 120 *directly contacts* the floor (*See* Zollinger Fig. 3). Further, Zollinger’s transverse aisle 120 is *not* arranged above *nor* separate from the Zollinger’s mobile vertical lift 100. In fact,

the mobile vertical lift 100 is actually adapted to *engage* monorails 14 and 16 of the transverse aisle 120 and, hence, cannot be considered separate. *See e.g.* col. 3, lines 46 *et seq.* Therefore, Zollinger does not teach or suggest the recited claim language.

Applicants note that despite the Examiner's clarification during the interview of Zollinger's transverse aisle 120 being interpreted as the recited feeding system, the Office Action states at pages 3-4, "[Zollinger's] transfer vehicles move along with the system, therefore can be arranged above the movable vertical lift." Therefore, it appears that the Office has interpreted the mobile transfer vehicles 200 as the feeding system. However, this would mean that the Office has construed the mobile transfer vehicles 200 as both (1) the at least one vehicle and (2) the feeding system which is arranged above and separate from the floor bound transport system. Applicants respectfully disagree that Zollinger teaches the recited feature because, in and of itself, this interpretation improperly uses the mobile transfer vehicle 200 as two claim elements which are clearly distinct. On this basis alone, the rejection should be withdrawn.

Further, even assuming without conceding the Office could interpret the mobile transfer vehicle to be two separate and distinct elements of the claim, such an interpretation in which Zollinger's mobile transfer vehicles 200 are the feeding system and Zollinger's vertical movable lift 100 is the floor-bound transport system, would still not teach or suggest "a feeding system ... arranged above ...said floor-bound transport system ..." In contrast to the recited claim language, Zollinger's movable vertical lift 100 has a monorail at its top which would prevent any mobile transfer vehicle 200 from being arranged above the movable vertical lift 100. *See e.g.* Fig. 2 which shows the movable vertical lift 100 between monorails 14 and 16. Therefore, clearly the mobile transfer vehicles 200 are *not* above the movable vertical lift 100.

The Office has responded to the above argument by stating that in Zollinger, "the transfer vehicles move along with the system, therefore [the transfer vehicles] can be arranged above the movable vertical lift." However, Applicants disagree with such a statement. Merely because the transfer vehicle 200 may move with the system, does not necessarily require that it can be arranged above the movable vertical lift 100. In fact, as shown in Zollinger's FIG. 2, the mobile transfer vehicles 200 can move along with the movable vertical lift 100 without being above it.

Third, Claim 1 also recites, *inter alia*, “wherein said feeding system is movable above, but along, a portion of a path that the at least one vehicle runs, while being independently movable of the at least one vehicle during said movement ...” (emphasis added).

During the interview, the Examiner has clarified that in the rejection, Zollinger’s transverse aisle 120 is interpreted as the recited feeding system and that Zollinger’s mobile transfer vehicles 200 is interpreted as the recited “at least on vehicle.” However, in contrast to the recited claim language, Zollinger’s transverse aisle 120 is not movable, rather it is stationary. Therefore, Zollinger does not teach or suggest the recited claim language.

Further, in rejecting Claim 1, the Office has interpreted the above claim language to mean that, “it is only required that the mobile transfer vehicles be capable of being independently movable.” See the Office Action at page 4. Applicants respectfully disagree. The claim states, “said feeding system is ... independently movable of the at least one vehicle ...” (emphasis added). Therefore, clearly, the Examiner’s interpretation that the mobile transfer vehicles need only be independently movable is incorrect, because the claim recites the feeding system is independently movable of the at least one vehicle.

Additionally, Applicants note that despite the Examiner’s clarification during the interview of Zollinger’s transverse aisle 120 being interpreted as the recited feeding system, the above statement in the Office Action that, “it is only required that the mobile transfer vehicles be capable of being independently movable.” appears to indicate that the Office has interpreted the mobile transfer vehicles 200 as the feeding system. However, this would mean that the Examiner has interpreted the mobile transfer vehicle 200 to be both (1) the at least on vehicle and (2) the feeding system. Applicants submit it is improper to interpret the mobile transfer vehicle 200 to be two separate and distinct elements of the claim. However, even assuming without conceding that the Office could interpret the mobile transfer vehicle 200 to be both (1) the at least one vehicle and (2) the feeding system, Zollinger still does not teach or suggest the recited feature, because the mobile transfer vehicle 200 can not possibly be independently movable of itself. In light

of the all of the above remarks, Applicants respectfully request the rejection of claim 1 be withdrawn.

Claim 3 recites similar language and similar arguments apply.

Claim 25 recites similar language and similar arguments apply. Further, specifically, claim 25 recites, “at least one traversing unit configured to run along a rail guiding means arranged in the alleys between the rack plates on a level corresponding to one of an upper shelf level in the rack...” Clearly, Zollinger does not disclose this feature. The Office has interpreted the vertical moving lift 100 as the traversing unit. *See* the Office Action at page 2. However, the vertical moving lift 100 does not run along a rail guiding means arranged in the alleys between the rack plates. Instead, the vertical moving lift 100 only moves at the end of the racks or aisles. Further, the vertical moving lift 100 does not run on a level corresponding to one of an upper shelf level in the rack. Instead, the vertical moving lift 100 spans the entire height of the rack.

Further, specifically, claim 25 also recites, “a fixing means for connection of the at least one load receiving means to adjacent rack plates during removal or insertion of a storage unit from or into a rack ...” Zollinger fails to teach or suggest such a fixing means.

For at least the above reasons, Zollinger does not disclose or suggest the above recitations. Therefore, Applicants respectfully submit that each of independent claim 1, 3 and 25 patentably defines over Zollinger. Reconsideration and withdrawal of the rejection are respectfully requested.

#### **B. Zollinger in view of Goodman**

The Office Action has rejected claim 24 for alleged obviousness over Zollinger in view of US Patent No. 6,658,320 to Goodman (*hereinafter* “Goodman”). *See* the Office Action at page 3. Goodman fails to remedy the deficiencies of Zollinger and hence, the claims are allowable over such a combination for the reasons given above.

**Conclusion**

It is believed that a 3-month extension of time fee is due and such is provided herewith. If, the Office determines that any additional fees are required, such as fees under 37 C.F.R. §§ 1.16 or 1.17, or if an additional extension of time is necessary that is not accounted for in the papers filed with this Response, the Commissioner is authorized to debit our Deposit Account No. 19-0733 for any necessary fees, including any necessary extension fees or other fees needed to maintain the pendency of this application.

All rejections having been addressed, Applicant respectfully submits that this application is in condition for allowance and respectfully solicits prompt notification of the same. If the Examiner believes that a telephone conference or a personal interview will be useful to advance the prosecution of this application and/or place the application in condition for allowance, he is invited to contact the undersigned attorney by telephone.

Respectfully submitted,  
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